

DOCUMENT RESUME

ED 262 120

UD 024 449

TITLE Delores Ross, et al., Plaintiffs, and United States of America, Plaintiff-Intervenors and Nick Estrada, et al., Plaintiff-Intervenors vs. Houston Independent School District, et al., Defendants. C.A. No. 10444. Settlement Agreement.

INSTITUTION District Court, Houston, Tex. Southern District of Texas.

PUB DATE [84]

NOTE 16p.; For related document, see ED 117 207.

PUB TYPE Legal/Legislative/Regulatory Materials (090)

EDRS PRICE MF01/PC01 Plus Postage.

DESCRIPTORS *Affirmative Action; Bilingual Teacher Aides; Bilingual Teachers; *Compliance (Legal); *Court Litigation; Dropout Prevention; Elementary Secondary Education; *Equal Opportunities (Jobs); *Hispanic Americans; Legal Responsibility; *Magnet Schools; Tutorial Programs

IDENTIFIERS *Houston Independent School District TX

ABSTRACT

This Civil Action (C.A.) settlement agreement concerns employment policies (specifically of minorities), student transfers, boundary changes and new school construction, facilities and supplies, instructional programming, the dropout rate, and retention of the Voluntary Interdistrict Education Plan. These concerns are related to the increase of equal opportunity for Hispanic teachers and students. Monitoring of the HISD's compliance with this agreement and communication between various segments of the community and the principals, counselors, teachers, the General Superintendent, and the Board of Education are outlined as well as reporting procedures and term. (CG)

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

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DELORES ROSS, et al.,
Plaintiffs,

and

UNITED STATES OF AMERICA,
Plaintiff-Intervenors

and

NICK ESTRADA, et al.,
Plaintiff-Intervenors

VS.

HOUSTON INDEPENDENT SCHOOL
DISTRICT, et al.,
Defendants

C. A. NO. 10444

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SETTLEMENT AGREEMENT

I.

The Original Plaintiffs, Delores Ross, et al., (Plaintiffs), and United States of America, (Plaintiff-Intervenors), and Nick Estrada, et al., (Plaintiff-Intervenors), (collectively the Plaintiffs) and the Houston Independent School District (HISD) have agreed that the district court found that the HISD was a unitary school district by order of June 17, 1981. This order was affirmed by the Fifth Circuit Court of Appeals.

The district court has set a hearing to determine if the HISD has maintained this unitary status. The Plaintiffs and the HISD agree that this settlement agreement settles and compromises all existing differences between the parties without the need for a further hearing. This settlement agreement shall not be effective until and unless it is approved by the court in C. A. No. 10444 and the Plaintiffs' causes of action in C. A. No. 10444 are dismissed with prejudice to the refiling of same. Such dismissal shall be without prejudice only to the extent that any of the Plaintiffs may, subject to the provisions of VIII, file an action with the United States District Court, Houston Division, seeking to enforce the provisions of this settlement agreement.

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II.

The Plaintiffs and the HISD agree that the following steps will be taken:

A. Employment

1. Teachers, administrators and other school employees will be hired, promoted, paid, demoted, dismissed, assigned (except as provided in A.6.) or otherwise treated without regard to race, color or national origin. The process of assignment of teachers and administrators provided in A.6. (currently known as the Singleton Ratio) shall not be utilized or have the effect of preventing any person from being hired based on race, color or national origin at any time during the year.

2. The HISD shall continue to affirmatively recruit qualified Hispanic and black applicants for employment. In furtherance of this objective, the HISD will increase its visits to and recruitment at institutions of higher learning in Texas and appropriate out of state institutions which produce significant numbers of Hispanic and black graduates in the field of education. Among the institutions to be included, or which will be included in this effort, are Texas Southern University, Pan American University, Southwest Texas State University, East Texas State University, Texas A&I University, Corpus Christi State University, Huston Tillotson College, Laredo State University, Prairie View A & M University, Sul Ross State University, University of Texas at El Paso, Wiley College, University of Texas at San Antonio, Bishop College, and Texas College.

3. A goal of the HISD in this effort to recruit qualified applicants of Hispanic origin for employment will be to increase the percentage of teachers and administrators of Hispanic origin employed by the HISD to equal the percentage of teachers and administrators of Hispanic origin employed in the public schools of Texas. The HISD goal will be, subject to availability, to have increased the percentage of teachers and administrators of Hispanic origin by three (3) percent by the beginning of the 1987-88 school year. Likewise, the HISD, subject to availability, has as its goal to increase the percentage of Hispanic origin administrators in category 16 or above positions to equal the statewide percentage of Hispanic origin administrators in category 16 or above positions. Special attention and priority will be given to high visibility positions in the central administration which are among the highest in compensation, and responsibility and ones which include the supervision of other high level administrators.

4. The HISD will develop and carry out an affirmative recruitment program at predominantly black universities and other institutions of higher education with large numbers of black students in the school or college of education. Such institutions will include, but will not be limited to, those listed in II. A.2. The HISD will promote the student-teacher internship program to ensure a qualified teacher applicant pool, as large as possible.

5. Beginning with school year 1985-86 and then for so long as the student teacher internship program continues to be a program of the HISD, it will include the predominantly black and -Hispanic institutions of higher education with a teacher education program within the State of Texas and others deemed appropriate, if those institutions agree to participate. Such institutions will include, but will not be limited to, those listed in II.A.2. Particular emphasis will be given to colleges and universities having bilingual training programs. All interns must meet all proficiency requirements of the State of Texas and the HISD to participate in the program. The HISD proficiency requirements will be job-related.

6. The HISD will continue to assign its administrative and teaching staff (all faculty) to the schools of the HISD so that the percentage of black, Hispanic and other staff will reflect the percentage of black, Hispanic and other staff which exists districtwide at the elementary, middle and senior high school levels. This practice will not affect hiring at any time during the year, but will affect assignments and reassignments. The HISD will continue to be permitted to utilize the variances of ten (10) percent at the elementary level and fifteen (15) percent at the middle and senior high school levels unless exceeding the variance is necessary to effectuate bilingual (including ESL) needs, the education of the multiple and severely handicapped or to staff the Outdoor Education Center. This is the current policy of the HISD which is commonly referred to as the Singleton Ratio. If the variance must be used, any employee who falls outside the variance at a school will be assigned as a temporary teacher with the customary teacher contract but will be subject to reassignment as soon as a teacher of the race or ethnicity needed to move the school back within the variance is hired or who requests a transfer. The temporary teachers shall not be included when calculating the mean of the school but shall be included in the calculation of the districtwide mean. Teachers shall continue to be subject to assignment. Each school of the HISD will

annually develop and submit a plan to move to or maintain the districtwide mean of black, Hispanic and others.

7. The districtwide mean for assignment purposes under 11. A.6. will be calculated on May 1 of each year.

8. The HISD will maintain a record of all applicants for employment by race and ethnicity, the ultimate disposition of their applications, and their applications for a period of two (2) years. An applicant, for purposes of this paragraph only, includes persons who file formal applications, interview with the professional representatives of the HISD at institutions of higher education or at the HISD's personnel office, or those who write the school district requesting information on employment opportunities with the school district. The records to be maintained shall include the following information: Name, address, telephone number, sex, race or ethnicity, college or university, area of certification, experience and date of application, if the information available.

9. The HISD will conduct a study of its employment processes, including use of the "SRI," the employment review team concept, and each other step of the employment process, to determine the effect of each step of the process on all racial and ethnic groups. This study will be completed by January 1, 1986, and will be sent to the Plaintiffs and made available for public inspection along with any actions taken. This study will be conducted by an outside, independent contractor using commonly accepted methods for analyzing employment practices.

10. The HISD will focus on the recruitment of teachers with experience and continue the efforts of the staff stabilization plan to recruit and retain experienced teachers in all of the HISD's schools with emphasis on Chapter I and FOAA schools.

B. Transfers

The HISD shall continue its various student transfers which were required or permitted under C. A. No. 10444. Specifically, the HISD will retain its tri-ethnic transfer option and shall provide transportation subject to administrative guidelines to students who transfer pursuant to that option. All non-magnet special transfers will be renewed annually and a report prepared which will consider the transfers' effects on the integration of the HISD. Copies of the reports will be provided to the parties.

Except as provided below, all student transfers which, when granted, were or are inconsistent with the policies of the HISD, the prior orders of the court or the hardship policy approved by the court's Tri-Ethnic Committee on June 21, 1972 (minutes, page 2), and of which the HISD becomes aware, shall not be renewed after the effective date of this agreement unless the student demonstrates his or her eligibility for the transfer. The provisions of this paragraph shall not apply to any transfers granted prior to the effective date of this settlement agreement to extended day programs that were not wholly funded by the HISD or to students who transferred under VIEP. All original and renewal magnet and Special Transfer (Form B) applications must be signed first by the sending principal and second by the receiving principal.

C. Boundary changes and construction of new schools

The HISD will continue to make boundary changes and construct new schools in accordance with the current provisions of C. A. No. 10444.

D. Facilities and Supplies

The HISD will continue its annual plan to remodel, renovate or make additions to buildings. This program will continue based on present and projected use of buildings and consistent with Phases IV and V of the School Facilities Improvement Program (SFIP). In allocating supplies, equipment and maintenance to each of the schools within the HISD, the HISD does not and will not make such allocations on the basis of the race or ethnicity of the student body of the school.

E. Instructional Programming

1. The HISD will affirmatively take steps, through instructional plans determined appropriate, toward the goal of having HISD students achieving at or above local or state standards or national norms using the following criteria, or comparable substitutes, to measure achievement: national norms on the Iowa Tests of Basic Skills (ITBS); state scores on the Texas Assessment of Basic Skills (TABS); scores on the National Assessment of Educational Progress; and the High School Proficiency Tests on state curriculum.

2. Voluntary tutorial programs will be offered to any student who is not achieving at or above local or state standards or national norms on the criteria listed in E.1. The HISD may mandate tutorial programs (after school, on Saturdays, in lieu of electives or during the summers) for all students who are failing under

HISD or state promotion/credit requirements. Any mandatory tutorial programs offered outside the regular school day will be available in the appropriate HISD school nearest the student's residence.

3. HISD will spend no less per pupil (from both state and local funds) on bilingual (including ESL) instruction than in the 1983-84 school year.

The HISD will conduct a study involving students and programs in grades 6-9 to ascertain the need for bilingual instruction at this educational level.

4. Beginning with the 1985-86 school year, the HISD will provide aides for bilingual teachers (excluding ESL) if the class size exceeds 22 in grades K-2 or 25 in grades 3-5 or when the teacher lacks certification or is on emergency certificate. Bilingual teacher aides will be required to meet standards on the appropriate HISD tests for teacher aides and the state requirements for teacher aides.

5. The HISD will maintain the Focus on Academic Achievement (FOAA) programmatic thrust for underachieving ethnically isolated schools which includes the lower pupil/teacher ratio as it exists for the 1984-85 school year. The HISD will implement a prekindergarten program under the provisions of House Bill 72 for four-year-olds in all Chapter I and FOAA schools for the 1985-86 school year with a class size of 22:1.

6. The HISD will continue to monitor the enrollment in magnet schools and take appropriate steps to insure that the race and ethnicity of students is not the basis for counseling or placing students into or out of any program -- magnet, vocational or academic. The HISD will maintain central records on students applying for magnet school programs including the number of students admitted, rejected or placed on a waiting list. These records will be maintained for two (2) years. A central record of students withdrawing from magnet school programs will also be maintained for two (2) years including the reason for the withdrawal.

When the prior year's demand indicates a sufficient interest in a program (as opposed to a location), where positions were not available, the HISD will continue to increase the number of positions available, if space is available at that location, or, increase the number of locations in a magnet school program. However, because of the nature of certain existing programs,

including High School for Health Professions, High School for Performing and Visual Arts, Lamar School of Business Professions, High School for Law Enforcement and Criminal Justice, Milby Petro-Chemical Careers Institute, Sterling High School for Aviation Sciences, B. T. Washington High School for Engineering Professions and Yates School of Communications which require significant capital expenditures on facilities and equipment, these programs will not be required to be replicated.

The existing magnet school program will be continued, except as provided below, and will be evaluated annually. The annual reports on Magnet school programs will include the per pupil expenditures, race or ethnicity, achievement scores, average class size, pupil/teacher ratios, teacher experience and waiting lists for each magnet program and location.

Additions of magnet school programs or locations may be made to meet integration or educational needs. Deletions of specific magnet school programs or locations may be made because of low student enrollment, nonachievement of program objectives or the inability to meet the goals of integration. The HISD will make efforts to enhance the program for a period of two years before deleting a magnet school program or location.

7. The parties agree that the enrollment goal for a Satellite magnet school shall continue to be at the existing ratio of sixty-five (65) percent minority (combined black or Hispanic) and thirty-five (35) percent white (all ethnic groups not designated black or Hispanic). The current July 1 deadline will apply to Satellite campuses.

The parties agree that the enrollment goal for a magnet school designated as an In-Town Consortium magnet is to have a student body which reflects 60 percent minority (combined black or Hispanic) and 40 percent white (all ethnic groups not designated black or Hispanic). After July 1 of each year, the In-Town Consortium magnet schools will enroll students on the current 65 percent - 35 percent ratio. These goals will take effect with the 1985-86 school year. Those students presently enrolled in an In-Town Consortium magnet program shall be entitled to renew their enrollments in that program for so long as they remain students in the HISD.

8. The HISD will continue its efforts to promote understanding of the environment of the HISD through multicultural education and activities.

F. Dropouts

1. In order to provide a further understanding of the problem of school dropouts, the HISD will conduct a study on dropouts with an emphasis on the dropouts of Hispanic students. The study will specifically include those students termed dropouts in previous HISD studies and those who leave the school district at the end of a school year and for whom there is no record of future participation in public schools.

2. The HISD will develop appropriate educational strategies with the goal of reducing dropouts among all ethnic groups and to achieve a status where the percentage of Hispanic dropouts is roughly comparable to the overall percentage of dropouts from the HISD. This educational strategy may include the establishment of a Research, Development and Educational Center for the Study of Literacy and Dropout Prevention, in conjunction with the Texas Education Agency and appropriate state officials, where a special emphasis would be placed on literacy education and the identification and a follow-up study of dropouts.

III.

Voluntary Interdistrict Education Plan

The Voluntary Interdistrict Education Plan (VIEP), operated in cooperation with and under the sponsorship of the Texas Education Agency, will be retained by the HISD. Efforts will be made to expand and enhance the VIEP by such activities as cluster centers or interactive television, with a continued emphasis on attracting full time transfers.

IV.

- A. The Plaintiffs and the HISD agree that the court in C. A. 10444 has not made a finding that the HISD has ever discriminated against Hispanics as an ethnic group in the areas alleged in C. A. No. 10444. It is understood and agreed by the parties that the entry into this settlement agreement is not an admission or confession by the HISD that it has violated the provisions of the United States or Texas Constitutions, Title VI or Title VII of the Civil Rights Act of 1964 or other laws which were alleged or could have been alleged by the Hispanic Intervenors to have been violated by the HISD in C. A. No. 10444.

- B. This Settlement Agreement is entered into in compromise and settlement only, and it is not admissible in any proceeding for purposes of establishing a violation or the absence of a violation of any constitutional provision, law or regulation.

V.

Monitoring, Communications and Reporting

A. Monitoring

An Equity/Quality Assurance Audit Committee will be established to analyze data on the extent to which the goals of E.1. have been met and report yearly to the Plaintiffs with copies available to the public. The Audit Committee will be comprised of the Governor of the State of Texas, or designee, the Mayor of the City of Houston, or designee, and the Presidents, or designees, of the five local universities (University of Houston, Texas Southern University, Rice University, Houston Baptist University, and the University of St. Thomas). If no Black is appointed or designated, the HISD will appoint a recognized Black educator or community leader to the Audit Committee; the Original Plaintiffs may submit names for consideration by the Board. Likewise, if no Hispanic is appointed or designated, the HISD will appoint a recognized Hispanic educator or community leader to the Audit Committee; the Hispanic Plaintiff Intervenor may submit names for consideration by the Board.

By November 15, 1984, the HISD will notify the various officials of their roles under this section. By February 1, 1985, each official must state that the official or a designee will serve, and the name and race or ethnicity of the person to serve. Each member of the Committee will serve until August 31, 1989. If a member can no longer serve, the nominating official or his/her successor shall designate another person to fill the remainder of the term. The Committee will hold its first meeting by April 1, 1985. The HISD will provide facilities for the meetings of the Committee, such meetings to be held in compliance with the Texas Open Meetings Act, Article 6252-17, and the terms of this Settlement Agreement.

B. Communications

Home/School/Community Agents will be employed by the HISD and assigned to geographical areas of the HISD to facilitate communications between the various segments of the community and the principals, counselors, teachers, the General Superintendent and the Board of Education. The Home/School/Community Agents will report directly to the office of the

General Superintendent, and if needed in a given geographic area, Home/School/Community Agents will be required to have bilingual skills. To be qualified for this position, the persons need not have teacher or counselor certification but must have a proven record of working in a multiethnic environment in Houston. These Home/School/Community Agents will be in addition to the Agents currently employed and will have the broader duties set out above.

C. Reporting

Commencing on November 1, 1985, the HISD will submit an annual report on the status of this settlement agreement which shall be sent to the Equity/Quality Assurance Audit Committee and the Plaintiffs. This report will include all categories of information previously supplied to the court under the requirements of C. A. No. 10444. Copies shall also be available to the public.

VI.

Term

This Settlement Agreement shall remain in effect for a term of five (5) years, September 1, 1984 through August 31, 1989, and at such time the agreement shall terminate. The parties, by mutual agreement reduced to writing, may extend this settlement agreement for a like or lesser term if accomplished prior to termination.

VII.

Conflicts

This Settlement Agreement is based on the current status of federal law, interpreted by the Supreme Court or the Fifth Circuit Court of Appeals. Upon a change in federal statutes, Supreme Court or Fifth Circuit opinions, any party may, upon thirty (30) days' written notice to the other parties, file an action in the United States District Court, Southern District, Houston Division, to modify the settlement agreement to conform with the changed federal statutory or Supreme Court or Fifth Circuit case law.

VIII.

Notices and Reports

Notices and reports related to this settlement agreement shall be made by or through the attorneys-in-charge or designated local counsel for the Plaintiffs and the HISD.

Notices shall be sent by United States mail, certified mail/return receipt requested or hand delivery. The attorneys-in-charge and the designated local counsel together with their addresses for the Plaintiffs and the HISD at the time of this settlement agreement's execution are:

Henry J. Wagner
Attorney-in-Charge for
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Houston, Texas 77002
(713) 650-0598

Patrice Johnson
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1900 RepublicBank Center
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Albert H. Kauffman
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San Antonio, TX 78205
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Ruben Rendon
Local Counsel for
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3603 Telephone Road
Houston, Texas 77023
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Kelly Frels
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Attorney-in-Charge for
the HISD, et al.
2900 South Tower
Pennzoil Place
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Notice of any change in the designation of the attorney-in-charge or the designated local counsel must be made in writing by the previous attorney-in-charge.

IX.

Compliance with Settlement Agreement

- A. The Plaintiffs and the HISD agree that this Settlement Agreement shall control all issues related to allegations made by the Plaintiffs in C. A. No. 10444 and that the Plaintiffs' causes of action in C. A. No. 10444 are to be dismissed with prejudice to the refiling of same. Such dismissal shall be without prejudice only to the extent that the Plaintiffs may file an action with the United States District Court Houston Division, seeking the enforcement of the provisions of this settlement agreement. This settlement agreement does not in any manner preclude or prohibit a member of the class represented by the Plaintiffs from filing a suit under Title VI or Title VII of the Civil Rights Act of 1964 or on any other matter not covered by this Settlement Agreement.
- B. Prior to filing suit to enforce a provision of this Settlement Agreement, the Plaintiffs agree to first serve written notice on the HISD of the alleged violation of this Settlement Agreement. The notice must identify the provision of the Settlement Agreement allegedly violated, the facts available which support the allegation and a statement of the relief requested. This initial notice will be supplemented by an additional notice when other facts become available, but no later than thirty (30) days from the date the initial notice is given. This additional notice will state the specific facts which support the allegations and a thorough and complete statement of the relief requested. The HISD will be afforded sixty (60) days from the date the initial notice is actually received by the attorney-in-charge for the HISD to remedy the alleged violation prior to filing a suit.

Signed in multiple copies on the date indicated by the parties authorized to execute same.

Date: September 10, 1984 Linis Centu
Class Representative for
Hispanic Intervenors

Date: 9/10/84 Charles R. Glass
9/10/84 Delores Rose Pilegon
Class Representative for
Original Plaintiffs

Date: September 10, 1984 D. Smith Keith
United States of America

Date: September 10, 1984 Augustine Reyes
President, Board of Education

Date: September 10, 1984 Mr. Mariano S. Dela Cruz Jr.
Secretary, Board of Education

BEST COPY

APPROVED AS TO FORM AND CONTENT:

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Signed this 10th day of September, 1984.

Robert O'Connor, Jr.
ROBERT O'CONNOR, JR.
United States District Judge